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23 UNITED STATES DISTRICT COURT

24 NORTHERN DISTRICT OF CALIFORNIA

25 SAN FRANCISCO DIVISION

26 SONOS, INC.,

27 Plaintiff and Counter-
28 Defendant,

29 vs.

30 GOOGLE LLC,

31 Defendant and Counter-
32 Claimant.

Case No. 3:20-cv-06754-WHA

Related to Case No. 3:21-cv-07559-WHA

**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF ITS RESPONSE TO
REQUEST FOR INFORMATION (DKTS.
649, 661)**

I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Google LLC (“Google”) hereby requests to file under seal portions of its Response to Request for Information (Dkts. 649, 661) (“Response to Request for Information”). Specifically, Google requests an order granting leave to file under seal the portions of the document listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Response to Request for Information	Portions highlighted in yellow	Google
Exhibit 2 to the Declaration of Lindsay Cooper	Portions outlined in red boxes	Google

II. LEGAL STANDARD

Civil Local Rule 79-5(c) provides that a party seeking to file its own documents under seal must file an administrative motion that articulates the applicable legal standard and reasons for keeping a document under seal, includes evidentiary support from a declaration where necessary, and provides a proposed order that is narrowly tailored to seal only the sealable material.

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). In the Ninth Circuit, two different standards may apply to a request to seal a document – namely the “compelling reasons” standard or the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). “To seal records in connection with a ‘dispositive’ motion or a motion that ‘more than tangentially relate[s] to the merits of a case,’ ‘compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure’ are required.” *Bronson v. Samsung Elecs. Am., Inc.*, No. C 18-02300 WHA, 2019 WL 7810811, at *1 (N.D. Cal. May 28, 2019) (quoting *Kamakana*, 447 F.3d at 1178-79). “A particularized showing of ‘good cause’ under Federal Rule

1 of Civil Procedure 26(c), however, suffices to warrant sealing in connection with a non-dispositive
2 motion.” *Id.*

3 The Court’s Requests for Information (Dkts. 649, 661) relate to Google’s Motions *in Limine*
4 Nos. 1 and 2 (Dkts. 607, 610). This Court has analyzed sealing requests in connection with motions
5 *in limine* pursuant to the “good cause” standard for non-dispositive motions. *See, e.g., Gearsources*
6 *Holdings, LLC v. Google LLC*, No. 18-CV-03812-HSG, 2021 WL 1123630, at *2 (N.D. Cal. Feb.
7 24, 2021) (“Because Defendant’s motion *in limine* is not a dispositive motion, the Court applies the
8 lower good cause standard.”); *Racies v. Quincy Bioscience, LLC*, No. 15-CV-00292-HSG, 2019 WL
9 8438448, at *1 (N.D. Cal. Dec. 16, 2019) (“Because the parties move to file documents related to
10 their motions *in limine*, the Court will apply the lower good cause standard.”); *TVIIM, LLC v.*
11 *McAfee, Inc.*, No. 13-CV-04545-HSG, 2015 WL 3776424, at *2 (N.D. Cal. June 16, 2015)
12 (“Because motions *in limine* are nondispositive motions, the Court applies the ‘good cause’ standard
13 to the pending motions to seal.”).

14 **III. THE COURT SHOULD SEAL GOOGLE’S CONFIDENTIAL INFORMATION**

15 Material that is confidential and could harm a litigant’s competitive standing if disclosed
16 may be sealed under the good cause standard. *See, e.g., Skillz Platform Inc. v. AviaGames Inc.*, No.
17 21-CV-02436-BLF, 2022 WL 875654, at *2 (N.D. Cal. Mar. 24, 2022) (finding “good cause to file
18 the documents and portions of documents at issue under seal given the sensitive financial and
19 business information they contain”); *Dugan v. Lloyds TSB Bank, PLC*, No. 12-CV-02549-WHA
20 NJV, 2013 WL 1435223, at *2 (N.D. Cal. Apr. 9, 2013) (“There may be ‘good cause’ to seal records
21 that are privileged, contain trade secrets, contain confidential research, development or commercial
22 information, or if disclosure of the information might harm a litigant’s competitive standing.”).

23 The portions sought to be sealed contain confidential information regarding Google’s highly
24 sensitive product usage metrics data which Google does not share publicly. Public disclosure of
25 this information could harm Google’s competitive standing and create a risk of injury by providing
26 competitors with access to information that Google does not have similar access to about their
27 competitors, and may allow competitors and/or bad actors to manipulate or gain insight into how
28 Google maintains its data. Declaration of Jocelyn Ma ¶ 3. The portions sought to be sealed also

1 implicate the third-party confidentiality rights of IFTTT. Specifically, the Court has asked for non-
 2 public data in Google’s possession regarding IFTTT’s revenue and usage. Google is producing this
 3 information in response to the Court’s Request for Information, but IFTTT has not consented to its
 4 production. A less restrictive alternative than sealing would not be sufficient because the
 5 information sought to be sealed is Google’s proprietary and confidential business information but is
 6 integral to Google’s Response to Request for Information.

7 Google thus has good cause to keep such information under seal. *See, e.g., Arista Networks,*
 8 *Inc. v. Cisco Sys., Inc.*, No. 16-cv-00923-BLF, 2018 WL 2010622, *2-3 (N.D. Cal. Apr. 30, 2018)
 9 (sealing highly confidential information relating to litigant’s financial information and internal
 10 development strategies); *Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, No. 12-CV-
 11 03844-JST, 2015 WL 12976921, at *3 (N.D. Cal. Mar. 31, 2015) (granting motion to seal “sensitive
 12 business information regarding the amount of royalties received under a licensing agreement and
 13 also detailed information regarding a confidential licensing and manufacturing agreement” under
 14 the good cause standard); *Rodman v. Safeway, Inc.*, No. 11-cv-03003-JST, 2014 WL 12787874, *2
 15 (N.D. Cal. Aug. 22, 2014) (sealing “internal, nonpublic information discussing [a litigant’s] pricing
 16 strategy, business decisionmaking, and financial records”).

17 **IV. CONCLUSION**

18 For the foregoing reasons, Google respectfully requests that the Court grant Google’s
 19 Administrative Motion to File Under Seal Portions of its Response to Request for Information.

20
 21 DATED: May 5, 2023

QUINN EMANUEL URQUHART & SULLIVAN,
 LLP

22 By: /s/ Sean Pak
 23 Sean Pak

24 *Attorneys for GOOGLE LLC*
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ATTESTATION

Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that, on May 5, 2023, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system and email.

DATED: May 5, 2023

By: /s/ Sean Pak
Sean Pak